

REMARKS

This application has been reviewed in light of the Office Action dated February 23, 2004. Claims 1, 11-20, 24-30 and 175 are presented for examination. Claims 13-15, 20 and 27-31 have been amended to define more clearly what Applicants regard as their invention; the changes made affect only dependencies and minor matters of wording, and no narrowing of any claim recitation has been effected. Claims 1, 20 and 27 are in independent form. Favorable reconsideration is requested.

Claims 1, 11-16, 19, 20, 24-26 and 28-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,841,991 (Russell). Claims 13 and 14 were rejected under 35 U.S.C. § 103(a) as being obvious from *Russell*, Claims 17 and 18, as being obvious from that patent in view of U.S. Patent 5,819,015 (Martin et al.), and Claims 27 and 175, as being obvious from *Russell* in view of U.S. Patent 5,204,968 (Parthasarathi).

It is not believed to be necessary to repeat in full the general discussion that has been made in previous papers either about the general nature of the invention, or about the prior art. Applicants have again carefully studied the prior art and the reasoning set forth in the outstanding Office Action, and find themselves unable to agree with the Examiner's reading of *Russell* and his application of that reference against the claims.

As Applicants understand the outstanding rejections, one point of disagreement between them and the Examiner is whether what is sent from the printer 4 (and associated component NEB 2) in *Russell* to the PC 14 includes something that qualifies as a control program.

In *Russell*, a program CPCONSOL that is resident in the PC 14 shows the information exported from the printer 4 to an administrator (col. 6, lines 40-56), and performs control of the printer 4. The program CPCONSOL is not, however, taught or suggested to be obtained by PC 14 from the printer 4 or NEB 2 in any fashion, either directly or indirectly. It is therefore understood that what the Examiner is reading as a control program obtained by PC 14 from the device being controlled is something other than that program CPCONSOL resident in PC 14.

The Office Action cites col. 6, lines 52-56, as teaching that the printer 4 is able to export what that patent terms “control information” which the Examiner asserts “is more than just operational parameters and status data.” The same paragraph of the Office Action then continues with the observation that Russell “discusses more about *functions performed* on printer 4 by remote controller 14 including control information which is exported from the printer to the remote controller [emphasis added].” The following discussion reviews, in detail, various passages in Russell that describe the sending of information (“status and other information”), and which state that the information sent from printer 4 to PC 14 is used to perform control of the printer.

While nothing in *Russell* is seen, or has been pointed out by the Examiner, to be an explicit statement that any of the information that goes in any way from the printer 4 or NEB 2 to the PC 14 is a control program (the term used in the independent claims herein), the Examiner concludes nonetheless that at least some of the information in question qualifies as such a program. Applicants believe that the Examiner is reaching his conclusion in one or the other of two ways: Either the Examiner, despite the fact that *Russell* does not appear to teach that any of the information sent from the printer 4 or NEB

2 to PC 14 contains any executable code, believes that such executable code inherently must be present in some of the information that reaches PC 14 from the printer 4 or NEB 2, or the Examiner is interpreting the term “control program” in a fashion that does not imply the presence of executable code.

Russell refers repeatedly to “status information”, “device information”, “interface information”, “control information”, etc., but each of these terms appears to Applicants to be capable of being understood as identifying something other than executable code (and indeed, it appears to Applicants that it would be a strained reading to take any of these terms, or any others in *Russell*, as identifying that the information in question is executable). While a reference is certainly good for all that it fairly teaches to one of ordinary skill, it is only good for that which it clearly and unambiguously teaches, or for that which, while not disclosed in so many words, is nonetheless inherently and necessarily -- not merely possibly or even probably -- present. Applicant strongly believes that each reference in *Russell* to “information” of whatever kind can be read (and in Applicants’ judgment should be read) as referring to information that is not executable code. (If the Examiner does not agree, he is respectfully requested to identify the wording in *Russell* that he believes either explicitly refers to executable code, or inherently must be executable, and that passes from the printer 4 or NEB 2 to PC 14 and is used in controlling the printer 14.)

Alternatively, the Examiner may be interpreting “control program” as not requiring the presence of any executable code. Applicants believe from the language of their claims, however, that it is clear that the “control program” referred to does in fact include such code. (Again, if the Examiner disagrees that this is the case, he is

respectfully requested to set out what else he considers would be encompassed within the term in question.)

Since Applicants cannot agree that *Russell* contains any disclosure or suggestion that any executable code is passed from the printer 4 or NEB 2 to the PC 14, much less any such code that is then used to control the printer 4, Applicants strongly believe that each of their independent claims is allowable over that patent, taken alone.

A review of the other art of record, including the Examiner's secondary reference, has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in cursive script, reading "Leonard P. Diana", is written over a horizontal line.

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